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# Shainis & Peltzman, Chartered

Counselors at Law

Suite 290

1901 L Street, N.W.

Washington, D.C. 20036

(202) 293-0011

Fax (202) 293-0810

Aaron B. Shainis  
Lee J. Peltzman

Of Counsel  
William H. BuRoss, III  
Ruth S. Baker-Battist  
Robert J. Keller

March 17, 1998

Magalie R. Salas, Esq.  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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MAR 17 1998


FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Petition for Rulemaking  
Comments on Counterproposals  
MM Docket No. 97-244

Dear Mrs. Salas:

Transmitted herewith, on behalf of BK Radio, is an original and four (4) copies of its Comments on Counterproposals with respect to RM-9235 and 9236. Please contact the undersigned should the Commission have any questions with respect to these Comments.

Sincerely,

  
Lee J. Peltzman  
Counsel for  
BK RADIO

Enclosure

No. of copies received

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MAR 17 1998

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 97-244
Table of Allotments,	)	RM-9200, 9235 and 9236
FM Broadcast Stations.	)	
(Kerrville, Leakey and Mason, Texas)	)	

To: Chief, Allocations Branch

**COMMENTS ON COUNTERPROPOSALS**

BK Radio ("BK"), by its attorneys, hereby submits its Comments with respect to the counterproposals filed by Kent S. Foster ("Foster") (RM-9235 and 9236) in MM Docket No. 97-244, placed on Public Notice March 2, 1998 by Report No. 2259. Foster requests that the Commission amend its FM Table of Allotments by adding FM Channel 291A to the communities of Leakey and Mason, Texas. In support of its position in opposition, BK submits the following:

By *Notice of Proposed Rulemaking*, released December 19, 1997, the Commission proposed to amend its FM Table of Allotments by adding FM Channel 291A to the community of Kerrville, Texas. The proponent of the Kerrville allotment is The Stronghold Foundation, Inc. ("Stronghold"). Foster counterproposed that, instead of allotting Channel 291A at Kerrville, the Commission allot Channel 291A to both Leakey and Mason, Texas. However, Stronghold has filed Reply Comments, which point out that any conflict between Stronghold's Kerrville proposal and Foster's counterproposals need not be evaluated under established Commission's rulemaking criteria, since there are a plethora of other channels for allotment to each of Mason and Leakey.

BK is presently an applicant for Channel 249C2 at Mason, Texas (ARN-960823MF). BK is also coincidentally filing with these Comments its own Petition for Rule Making, which seeks

the allotment of two (2) additional channels (273C2 and 288C2) in order to resolve the current conflict between mutually-exclusive (Channel 249C2) Mason applicants. BK has also noted in its Petition that one other channel (245C2) remains available for allotment to Mason in the event that other parties file Comments in the BK rulemaking expressing an interest for a C2 channel at Mason.


In view of BK's own rulemaking proposal, BK supports Stronghold's position that alternate channels may be allotted to Mason other than Channel 291A. For allotment purposes, each FM channel is considered equivalent to every other; therefore, Foster has no legal right to Channel 291A, as long as other equivalent channels are available which may be allotted to Mason. As noted by Stronghold, Channels 224A and 259A may be allotted to Mason without any site restriction and Channel 240A may be add with a minimal site restriction of 11 kilometers. In view of these available channels, there is no reason to allot Channels 245, 273 or 288 to Mason. Selecting either Channel 224A, 240A or 259A, will permit the Commission to act on BK's rulemaking proposal, thereby permitting the prompt institution of service to Mason.

In sum, BK supports Stronghold's Reply Comments, and opposes the allotment of Channel 291A to Masson. BK requests that, in the event an alternate channel is allotted to Mason, the Commission select either 224A, 240A or 259A.

Respectfully submitted,

BK RADIO

By:

  
\_\_\_\_\_  
Lee J. Peltzman  
Its Attorney

Shainis & Peltzman, Chartered  
1901 L Street, N.W. - Suite 290  
Washington, D.C. 20036  
202/293-0011

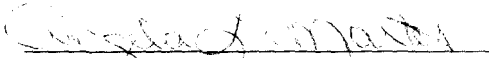
March 17, 1998

## **CERTIFICATE OF SERVICE**

I, Angela L. Master, Secretary, of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were sent, via First Class Mail, this 17<sup>th</sup> day of March, 1998, to the office of the following:

Bradford D. Carey, Esq.  
Hardy and Carey, L.L. P.  
111 Veterans Boulevard - Suite 255  
Metairie, LA 70005

Lawrence N. Cohn, Esq.  
Cohn & Marks  
1333 New Hampshire Avenue, N.W. - Suite 600  
Washington, D.C. 20036-1573

  
Angela L. Master